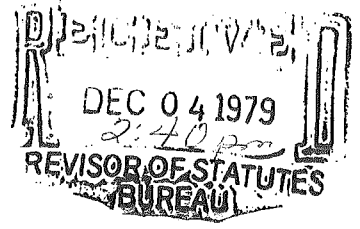


PSC 134



CERTIFICATE

STATE OF WISCONSIN )  
 )  
PUBLIC SERVICE COMMISSION ) SS.

TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Lewis T. Mittness, Executive Secretary of the Public Service Commission of Wisconsin, and custodian of the official records of said commission, do hereby certify that the annexed order creating Wis. Adm. Code sections PSC 136.01, 136.02, 136.03, 136.10 and 134.062(2)(e) was duly approved and adopted by this commission on October 19, 1979.

I further certify that said copy has been compared by me with the original on file in this commission and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the commission at the Hill Farms State Office Building, in the City of Madison this 25th day October 1979.

Lewis T. Mittness  
Executive Secretary  
PUBLIC SERVICE COMMISSION OF WISCONSIN

DATE MAILED  
OCT 23 1979

BEFORE THE

PUBLIC SERVICE COMMISSION OF WISCONSIN

In The Matter of the Investigation )  
of the Commission Relative to ) 1-AC-22  
Prohibiting the Use of Natural Gas )  
For Decorative Lighting )

ORDER ADOPTING RULES  
AND EMERGENCY ORDER

On November 30, 1978, the Public Service Commission noticed a proposed rule, sec. PSC 134.07, Wisconsin Administrative Code, entitled "Prohibition Against Use of Gas for Decorative Lighting." The notice stated in part:

To minimize the adverse effects of inefficient and/or wasteful use of energy, the Public Service Commission of Wisconsin proposes to eliminate the use of gas for decorative lighting. Decorative lighting may include gas lights, open flames, decorative flares, or similar uses. All gas utilities and their customers are responsible for effective natural gas conservation; the proposed rule is designed to assure continued conservation and efficient use of natural gas by customers.

The proposed rule would have banned the use of natural gas for decorative lighting effective January 1, 1980, and would have required all gas utilities to submit to the commission plans for eliminating such use of natural gas before the effective date of the rule.

On May 10, 1979, the Federal Department of Energy, Economic Regulatory Administration, issued rules to prohibit the use of natural gas in outdoor lighting. These rules, authorized by sec. 402, Power Plant and Industrial Fuel Use Act of 1978, (P.L. 95-620) are located in 10 CFR, Part 516.

Opinion expressed on the commission's proposed rule indicates that use of natural gas for decorative lighting may

be relatively small. Moreover, because of the commission pricing policies and utility practices, such use is decreasing. Concern was voiced over problems in enforcement and possible inconsistency between federal and state rules.

In order to promote ease of administration and to avoid inconsistency between federal and state authorities, the rules set forth by the Economic Regulatory Administration, Department of Energy, will be adopted by the commission. Specifically, sections 516.11, 516.20, 516.21, 516.22, 516.41, 516.42, 516.43, 516.44, 516.45, 516.46 and 516.47 (10 CFR, Part 516) will be adopted with slight changes to specify the Public Service Commission of Wisconsin as the relevant state regulatory authority and to allow for changes in numbering. Sections PSC 136.10 and 134.062(2)(e), of the Wisconsin Administrative Code are also created to provide that violation of the rules is a cause for disconnection of service.

The commission finds that one major change in the federal rule is appropriate. Natural gas is a valuable resource and the inefficient use of gas for outdoor decorative lighting should be eliminated as quickly as possible. The date for banning such lighting for residential and municipal installations in the federal rules is January 1, 1982. The commission finds that waiting until this time to eliminate such an inefficient use of natural gas is inconsistent with its duty to promote conservation and insure adequate service. Therefore, the commission finds that the appropriate cut-off date in the rule should be January 1, 1981 and the same shall be ordered herein.

Pursuant to Ch. 196 in general and ss. 196.37(2) and 227.014(2)(a), Wis. Stats., and 10 CFR, Part 516, et. seq., the Public Service Commission adopts ss. PSC 136.01, 136.02, 136.03, 136.10, and 134.062(2)(e), Wis. Adm. Code as found in the attached appendix. The commission finds these rules to be reasonable and just.

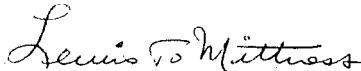
The commission, in adopting the federal rules as state rules, assumes responsibility for enforcement of the rules. Because the federal rules ban the use of natural gas for decorative lighting by commercial and industrial customers as of November 5, 1979, it is essential that the commission adopts its enforcement procedures immediately. Therefore, this rule shall take effect on an emergency basis, effective on date of issuance, as provided by s. 227.027(1), Wisconsin Statutes.

Chairman Stanley York dissents in part.

Dated at Madison, Wisconsin, \_\_\_\_\_

OCT 19 1979

By the Commission.

  
\_\_\_\_\_  
Executive Secretary

Appendix

Chapter PSC 136

Gas Conservation

PSC 136.01 General.(1) Chapter PSC 136, Wis. Adm. Code, constitutes a general order of the Public Service Commission, authorized by s. 227.014 and 196.97, Wis. Stats.

(2) The requirements of Chapter PSC 136 shall be observed by all public utilities, both privately and publicly owned, engaged in the manufacture, mixing, purchasing, storage, transmission and/or distribution of gaseous fuel.

PSC 136.02 Adoption of Federal Rules Prohibiting the Sale and Direct Industrial Use of Natural Gas for Outdoor Lighting.

(1) The Federal Department of Energy, Economic Regulatory Administration, pursuant to the Power Plant and Industrial Fuel Use Act of 1978, has established rules to prohibit the installation of new or replacement natural gas fixtures by local distribution companies and direct industrial customers. The rules also prohibit local distribution companies from providing natural gas to residential, commercial, and industrial customers for use in outdoor lighting, as set forth in 10 CFR Part 516, Code of Federal Regulations. In accordance with the Power Plant and Industrial Fuel Use Act of 1978, the Economic Regulatory Administration has delegated its authority to the Public Service Commission for administering prohibitions with regard to gas lighting under section 402 of the Act. The Public Service Commission adopts the rules of the Federal Department of Energy as state rules. Additions or changes have been made to the rules of the Federal Department of Energy as adopted herein for purposes of administration.

(2) Definitions. Unless otherwise expressly provided for the purposes of this rule --

(a) The term "direct industrial customer" means an industrial user of natural gas who obtains the natural gas under a contract with a natural gas pipeline company, or any agent thereof.

(b) The term "local distribution company" means any person engaged in the business of interstate or intrastate transportation and local distribution of natural gas for ultimate consumption.

(c) The term "natural gas" means any fuel consisting in whole or in part of natural gas, liquid petroleum gas, or synthetic gas derived from petroleum or natural gas liquids.

(d) The term "natural gas outdoor lighting fixture" means a complete stationary natural gas outdoor lighting unit, or any parts thereof, which may include a mantle(s) together with the parts designed to distribute the light, to position and protect the mantle(s) and fuel supply lines, and to connect the mantle(s) to the fuel supply.

(e) The term "pipeline company" means any person engaged in the business of interstate or intrastate transportation of natural gas by pipeline other than as a local distribution company.

(f) The term "residence" means any single or multiple family dwelling unit, including commonly held areas associated with such unit and including multiple family dwelling units which may be classified by the local distribution company as "commercial" customers.

(g) The term "substitute lighting" means outdoor lighting which does not directly burn natural gas.

(3) General prohibition on Installation of natural gas outdoor lighting fixtures.

(a) Prohibition. No local distribution company or direct industrial customer shall install any natural gas outdoor lighting fixture.

(b) Effective Date. The prohibition stated in paragraph (a) of this section shall be effective beginning on November 9, 1978.

(4) General prohibition on sale of natural gas for use in outdoor lighting.

(a) Prohibition. No local distribution company shall supply natural gas for use in outdoor lighting.

(b) Effective dates. 1. In the case of any residential, commercial, or industrial customer, the prohibition stated in paragraph (a) of this section shall be effective on May 8, 1979, unless a later effective date is applicable under paragraphs (2), (3), or (4) of this section.

(2) In the case of any industrial or commercial structure to which natural gas was being supplied by the local distribution company for outdoor lighting use on November 9, 1978, the prohibition stated in paragraph (a) of this section shall be effective on November 5, 1979.

(3) In the case of any municipal outdoor lighting fixture to which natural gas was being supplied by the local distribution company for outdoor lighting use on November 9, 1978, the prohibition stated in paragraph (a) of this section shall be effective January 1, 1981.

(4) In the case of any outdoor lighting fixture used in connection with a residence to which natural gas was being supplied by the local distribution company for outdoor lighting use on November 9, 1978, the prohibition stated in paragraph (a) of this section shall be effective January 1, 1981.

(5) Prohibition on use of natural gas by direct industrial customers for outdoor lighting.

(a) Prohibition. No direct industrial customer shall use natural gas for outdoor lighting.

(b) Effective dates.

(1) In the case of a direct industrial customer who was using natural gas for outdoor lighting on November 9, 1978, the prohibition stated in paragraph (a) of this section shall be effective on November 5, 1979.

(2) In the case of a direct industrial customer using a natural gas outdoor lighting a natural gas outdoor lighting fixture(s) that:

(i) Was installed prior to the ban on the installation of such fixture(s) set out in PSC 136.02(3); and

(ii) Was not using natural gas for such fixture(s) on May 8, 1979 --

The prohibition stated in paragraph (a) of this section shall be effective on May 8, 1979.

136.03 Exemptions.

(1) Lighting of historical significance.

(a) Scope. A federal, State or local government agency, or an appropriate historical association may petition the Public Service Commission for an exemption from the prohibitions set forth in PSC 136.02 for any property on the basis of historical significance. In the case of a petition for an exemption from the prohibition set forth in PSC 136.02(3) (General prohibition on installation of natural gas outdoor lighting fixtures), an exemption shall be granted only for replacement of a natural gas outdoor lighting fixture(s) that was installed prior to November 9, 1978. Such replacement shall include:

(1) Replacement of an extant original or reproduction fixture; or

(2) Installation of an original or reproduction fixture to replace a fixture which existed during the life of the specified historic property.

(b) Criteria. The criteria for an extension on the basis of historic significance shall be satisfied upon certification, by the petitioner, that the specifically identified natural gas outdoor lighting fixture(s) directly contributes to the quality of significance of the specifically identified historic property or district, as applicable; and upon a finding that the specifically identified historic property:

(1) Is listed on the National Register of Historic Places maintained by the Heritage Conservation and Recreation Service, Department of Interior, or is officially determined eligible for listing by the Secretary of Interior, pursuant to the National Historic Preservation Act (16 U.S.C. 470 as amended), applicable regulations (36 DFR Parts 60 and 63), and Executive Order 11593; or

(2) Is in a district whose State or local statutes are certified as providing adequate protection of historic places by the Secretary of the Department of Interior, pursuant to the Tax Reform Act of 1976 (26 U.S.C. 191, 380B) and applicable regulations.

(c) Stays. An exemption request shall result in a stay from the prohibitions set forth in PSC 136.02 if:

(1) The petitioner has certified that the specifically identified natural gas outdoor lighting fixture(s) directly contributes to the quality of significance of the specifically identified historic property or district, as applicable; and

(2) An application is pending, before the Department of Interior, for inclusion in one of the categories specified in subparagraphs (1) or (2) of paragraph (b) of this section.

(2) Memorial Lighting.

(a) Scope. A Federal, State or local government agency, or an appropriate historical association, may petition the Public Service Commission for an exemption from the prohibitions set forth in PSC 136.02(3) and (4) on the basis of memorial lighting. In the case of a petition for an exemption from the prohibition set forth in PSC 136.02(3) of this rule (General prohibition on installation of natural gas for outdoor lighting fixtures), an exemption shall be granted only for replacement of a natural gas outdoor lighting fixture(s) that was installed prior to November 9, 1978. Such replacement shall include replacement of an extant fixture only.

(b) Criteria. The criteria for an exemption on the basis of memorial lighting shall be satisfied upon a finding that the specifically identified outdoor lighting fixture(s) directly contributes to preserving the memory of a deceased person or persons.



(3) Commercial lighting of historical significance.

(a) Scope. A person using natural gas outdoor lighting for commercial purposes may petition the Public Service Commission for an exemption from the prohibitions set forth in PSC 136.02(3) and (4) on the basis of historical significance. In the case of a petition for an exemption from the prohibition set forth in PSC 436.02(3) of this rule (general prohibition on installation of natural gas outdoor lighting fixtures), an exemption shall be granted only for replacement of a natural gas outdoor lighting fixture(s) that was installed prior to November 9, 1978. Such replacement shall include:

- (1) Replacement of an extant original or reproduction fixture; or
- (2) Installation of an original or reproduction fixture to replace a fixture which existed during the life of the specified historic property.

(b) Criteria. The criteria for an exemption on the basis of historical significance shall be satisfied upon certification, by the petitioner, that the specifically identified natural gas outdoor lighting fixture(s) directly contributes to the quality of significance of the specifically identified historic property or district, as applicable; and upon a finding that the specifically identified historic property:

- (1) Is listed on the National Register of Historic Places maintained by the Heritage Conservation and Recreation Service, Department of Interior, or is officially determined eligible for listing by the Secretary of Interior, pursuant to the National Historic Preservation Act (16 U.S.C. 470 as amended), applicable regulations (36 CFR Parts 60 and 63), and Executive Order 11593; or
- (2) Is in a district whose State or local statutes are certified as providing adequate protection of historic places by the Secretary of the Department of Interior, pursuant to the Tax Reform Act of 1976 (26 U.S.C. 191, 280B) and applicable regulations.

(c) Stays. An exemption request shall result in a stay from the prohibitions set forth in PSC 136.02 if:

- (1) The petitioner has certified that the specifically identified natural gas outdoor lighting fixture(s) directly contributes to the quality of significance of the specifically identified historic property or district, as applicable; and
- (2) An application is pending, before the Department of Interior, for inclusion in one of the categories specified in subparagraphs (1) or (2) of paragraph (b) of this section.

(4) Safety of persons and property.

(a) Scope. A local distribution company, a direct industrial customer, or an interested person, may petition the Public Service Commission for an exemption from the prohibitions set forth in PSC 136.02(4) and (5) on the basis of the necessity to protect the safety of persons and property if such natural gas was being supplied on November 9, 1978.

(b) Criteria. The criteria for an exemption on the basis of the necessity to protect the safety of persons and property shall be satisfied upon a finding that:

(1)(i) Compliance with the prohibition would significantly increase the chances of bodily injury or damage to property;

(ii) Compliance with the prohibition would significantly increase the chances of the occurrence of crime; or

(iii) The lighting is necessary because other existing lighting does not provide lighting adequate to insure conformance with American National Standards Institute (ANSI) Standard No. D 12.1. "The American National Standard Practice for Roadway Lighting:" and

(2)(i) Would impose a substantial hardship on a person other than a local distribution company, a pipeline company, or a company that manufactures or supplies natural gas outdoor lighting fixtures, in terms of personal income or savings; or

(ii) Would not be justified by the savings likely to be accrued over the useful life of the substitute lighting facility.

(5) Time to Install substitute lighting.

(a) Scope. A local distribution company, a direct industrial customer, or an interested person, may petition the Public Service Commission for a temporary exemption from the prohibitions set forth in PSC 136.02(4) and (5). Such an exemption shall be on the basis of the time needed to permit the installation of substitute lighting where no adequate outdoor lighting (other than that using natural gas) exists, if such natural gas was being supplied on November 9, 1978.

(b) Criteria. The criteria for an exemption on the basis of time to install substitute lighting shall be satisfied upon a finding that:

(1) No adequate outdoor lighting (other than that using natural gas) is available at the time the applicable prohibition became effective; and

(2) The time required for installation of the substitute lighting will not extend beyond one year from the date the applicable prohibition became effective, unless facts and circumstances warrant a longer period.

(6) Substantial expense.

(a) Scope. A local distribution company, a direct industrial customer, or an interested person, may petition the Public Service Commission for an exemption from the prohibitions set forth in PSC 136.02(4) and (5) on the basis of substantial expense which would not be cost justified, if such natural gas was being supplied on November 9, 1978.

(b) Criteria. The criteria for an exemption on the basis of substantial expense which would not be cost justified shall be satisfied upon a finding that compliance with the prohibitions set forth in PSC 136.02(4) and (5) would substantially and negatively affect the profit margin, return on investment, or rates of a local distribution company or direct industrial customer.

(7) Public interest.

(a) Scope. A local distribution company, a direct industrial customer, or an interested person, may petition the Public Service Commission for an exemption from the prohibitions set forth in PSC 136.02(4) and (5) on the basis of the public interest and consistency with the purposes of the Federal Rule, if such natural gas was being supplied on November 9, 1978.

(b) Criteria. The criteria for an exemption on the basis of the public interest and consistency with the purposes of the Federal Rule shall be satisfied upon a finding that converting a specific natural gas outdoor lighting fixture(s) to substitute lighting would not reduce the use of natural gas.

136.10 Disconnection or Refusal of Service.

(1) Gas service may be disconnected or refused for failure to comply with the regulations contained in this chapter as specified in PSC 134.062.

134.062(2)(e) is created to read as follows:

(e) Connecting or having connected a natural gas outdoor lighting fixture as specified in PSC 136.02.